assumption. SBC examined which wire offices have revenues that exceed costs and vice versa. Knowing that there is debate as to how to calculate costs, the company looked at (i) actual local revenue versus actual local costs, (ii) actual local revenue versus costs calculated using the Commission's model for forward looking costs, and (iii) total switched revenues (including local, toll, and access services) versus actual total switched costs. The study apparently indicated that 91 percent, 60 percent, or 74 percent of the total wire offices in the five-state region had costs that exceeded revenue, that is, either 91, 60, or 74 of Southwestern Bell's wire offices operate at a deficit.[2]

The study demonstrates that there is a substantial trend of wire offices that operate at a deficit, regardless of the best measure of costs. That has to mean that there are a substantial number of telephone customers who do not generate a profit for the local telephone companies. That in turn leads to two conclusions: First, new competitor companies are attempting to cull out non-profitable customers from their target markets. And, second, only the incumbent local telephone companies will offer affordable universal service to everyone in their respective universal service areas without interposing disincentives to the poor and disadvantaged.

[2]SBC has given the Campaign summary results of this study and told the Campaign the results have been disclosed to the Commission in various filings, ex partes, and other public communications, and authorized the Campaign to refer to the results here.

B. Allowing SBC Authority to Sell Long-distance Service in its Service Areas Will Give SBC an Incentive to Direct its Attention to Providing Full Service in its Traditional Service Areas.

The Campaign supports regulatory outcomes that work in favor of SBC's economic viability and create incentives to invest in its own universal service area, as the Campaign does with other incumbent local telephone companies. If, as the Campaign fears, re-regulation of the telecommunications industry will make it more profitable for local telephone companies to compete in foreign territories, they will be driven – by legitimate shareholder motives – to look away from their service areas to compete in others' markets that will be freer of regulation and more profitable for them. If so, they will necessarily, simply as a matter of allocating scarce resources, de-emphasize the maintenance and development of their existing universally accessible networks.

What so worries the Campaign is the threat that SBC (and other incumbent local telephone companies) will lose the incentive to maintain their networks on the nearly perfect performance basis of today – and the threat that they will lose the incentive invest in the technologies that will bring telemedicine, distance learning, video-conferencing, and other promises of the information revolution to everybody in their universal service areas, not just the privileged few in other local telephone companies' traditional service areas.

How does the Commission avoid or mitigate that threat? First, it has to recognize what is happening. Then, the Campaign suggests, in the public interest, the Commission should tailor decisions to give incumbent local telephone companies' incentives to retain robust, modern systems in their universal service areas.

1. What is happening?

Decision after decision since the 1996 Telecommunications Act has made competitor local telephone companies winners and incumbent telephone companies losers. Consider two bright, shining current examples.

Reciprocal compensation once made sense for adjusting payments between two local telephone companies exchanging calls across territories where the companies each have customers that originate and terminate telephone calls in their respective service areas. Now in some contexts, reciprocal compensation rules do nothing other than order incumbent telephone companies to transfer wealth to competitors, because, in the context of Internet access, one company's customers originate the vast majority of the calls and the other terminates them. While even having acknowledged the conundrum, the Commission deferred solving the problem from enactment of the 1996 Telecommunications Act until April of 2001, when it phased in a reduction of reciprocal compensation costs for incumbent companies.

Making Internet access available over cable television modems is another clear illustration. While requiring the incumbent local telephone companies to share their assets with competitors, the Commission is mum on the cable television industry's efforts to tie together provision of access to the Internet through cable lines to selection of an Internet service provider. The cable television companies are attempting to require their customers who use their cable lines for Internet access to use the one and only one Internet service provider each of those cable television companies is offering. Such a tying arrangement suggests antitrust questions.

One way or another, the requirement might have little impact on consumers if all Internet service providers the same. But they are not. Some Internet service providers are designed for people who speak other languages than English. Some are designed to allow consumers to have little technical competence, but tradeoff by restricting flexibility in their use. Others have other variations in design and character that make them more or less attractive to various consumers.

The requirement works especially to the detriment of people with disabilities who commonly have difficulty finding Internet service providers that do not interpose barriers to access to the Internet. This is illustrated by the fact that the National Federation for the Blind sued AOL in Boston in November 1999, because AOL's proprietary software does not function in the standard way required for screen access programs to convert full the information on AOL screens into synthesized speech or a refreshable Braille display. Unless the cable companies' one and only Internet service provider is fully accessible (and very few, if any, are fully accessible to people with every different kind of disability), some people with disabilities will not be able to use cable modem Internet service.

Yet, in the face of all this, the Commission does not intercede to require cable companies to give their customers the choice of Internet service provider. And it does not for the apparent reason that it should protect cable television industry financial development.

It does not take a genius for an incumbent local telephone company to figure out how to make money in these circumstances – develop strategies that make it more like a competitor telephone company or a cable television company.

2. It Is in the Public Interest for the Commission to Tailor Decisions to Give Incumbent Local Telephone Companies' Incentives to Retain Robust, Modern Systems in Their Universal Service Areas.

How does that play out on the issue of whether the Commission should let SBC into the long distance business in its own territories? It suggests that it is in the public interest for the Commission to let SBC into that business, thereby giving SBC incentives to focus on its local Missouri service areas will be enhanced. The combined constraints of fair competition and newly created regulation will be somewhat offset. Incentives will tilt in some, admittedly non-quantifiable measure in favor of Missouri. That is consistent with the desires of those of us in the Campaign who believe that attention to our local, universal service is threatened.

Moreover, just as it is hoped that competition will make local telephone service more affordable, the prospect of SBC offering long-distance service to its existing customers holds the hope that additional competition will put pressure on all providers to lower long-distance rates. Texas Technology Magazine lauded SBC long distance rate offering when it started providing long-distance service in Texas, saying:

> Telecommunications analyst Jeff Kagan said the rates exceed industry watchers' expectations. "SBC's long distance plans are the kind of innovative offerings we expected to see from Bell Atlantic when they first entered the New York market in January, but didn't," said Kagan. "Hopefully it will set the

stage for a new wave of competition in long distance, not just in Texas, but nationwide."

Kelsey, *Telecom Six Cents*, Texas Technology Magazine, undated, http://www.ttechnology.com/articles/2000/08/telecom.html.

As a result, the Campaign anticipates that allowing SBC to provide long-distance service in its universal service areas will both create incentives for SBC to maintain and invest in the vitality of the networks in those areas and cause SBC and the current long-distance competitors to lower prices in those areas.

Opponents of the Campaign's position may point out that it is only a hope that allowing SBC to see profitability in sales to its home base customers will cause SBC to remain focused on those customers. That may be true, but two other facts are also true – One, if SBC does not remain focused on these of its customers, no one else will. And, two, if SBC's profitability at home deteriorates, its economic interest will force it to look elsewhere for profit. Allowing SBC into the long distance business is an important piece of insuring the interests of older adults, people with disabilities, and others similarly situated in Missouri and eventually in other of SBC's universal service areas. Not allowing SBC into this long-distance business may cause a bleep in SBC's profitability. But, more important, it poses a serious threat to some people with disabilities, older adults, and others treated by the competitor companies as marginal customers.

VI. Approving SBC's Providing Long-distance Service in its Service Areas Will Facilitate Universal Design of Telecommunications Services for People with Disabilities and Older Adults

Residential consumers commonly reiterate concern that the telecommunications system has become too complex in America. They complain about telemarketing. They complain that bills are not understandable. They complain about multiple vendors and multiple bills. They complain about not knowing who to call if something fails. They wistfully, and only half jokingly, rue that "Ma Ball" was ever divided up.

Competition has created many of these difficulties. If there is going to be competition, we have to have a multitude of providers providing services in a multitude of ways. Thus, the complaints are simply the progeny of the choices consumers are now afforded. That can make it easy for one who espouses competition to fail to take these complaints seriously. The cacophony they suggest is an inevitable corollary.

Still, the citizenry is speaking; that fact cannot be ignored. Moreover, the complaints edge into becoming a disabilities rights issue. Section 255 of the Telecommunications Act, 47 U.S.C. § 255(b), provides that a "provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable." The choices have become so confusing that some older adults, just because of age, and some people of any age, just because of disability, cannot make rational decisions. For some of them, a rational choice is to buy all telecommunications services – meaning local, long distance, and potentially others like cellular telephones – from one provider and have to deal with only one bill per month.

People in that situation who want to use SBC or any other regional Bell operating company for their local telephone service cannot accomplish that goal unless applications like this one are granted. When they establish local phone service, they have to choose or be assigned a long-distance company for long-distance service. For sometime, long-distance companies have allowed local telephone companies to include local and long-distance billing in the same envelope. Many are now moving away from that and issuing their own separate bill. Their customers then receive at least two bills, one for local and one for long-distance service. Of course, a customer could sign up with a new provider of so-called "IntraLATA" long-distance service, meaning the customer could wind up with three monthly bills for local and long-distance service.

One way to avoid the confusion would be to sign up with competitors like ExOp of Missouri, Inc., EZ Talk Communications, LLC, Global Prepaid Alliance, Birch Telecom, My New Phone, and Sage Telecom, all discussed above. *See* pages 15 to 16 above. But those were high-end customer services or high-priced credit-risk offerings whose prices and benefits might be beyond the need or desire of many older adults and people with disabilities.

Another way to mitigate the confusion would be to allow SBC to sell long-distance service to its current local customers. Thus, granting SBC's application here would have the consequential effect of providing a convenience for older adults and the removal of a barrier to access for some people with disabilities. Both of those results are in the public interest.

Indeed, SBC's history in eliminating barriers to access in all of its services is worth noting. For example, SBC is reported to be one of the first two regional Bell companies to adopt a universal design policy to ensure that its products and services are usable by people with disabilities. *See Fortune 500 Companies Take Up Universal Design*, United Cerebral Palsy Washington Watch, vol. 4, no. 5, April 7, 1998.

In fact, SBC voluntarily committed itself toward making all of its new products and services accessible, and requiring its vendors to assist in that process, notwithstanding the unfortunate battle that ensued in the Commission over whether § 255 covers all information services or just telecommunications services. For example, while SBC has not volunteered to be covered by § 255 regulations for services that are not "telecommunications services" within its understanding of that term, SBC did state in its comments In the Matter of Implementation of Section 255 of the Telecommunications Act of 1996, WT Docket No. 96-198:

> [SBC's] Universal Design Policy, which applies to all of SBC's subsidiaries, pledges each company to create new products and services – including information services – that address the needs of customers with disabilities.

Id., at 8.

Thus, SBC has adopted, as a matter of general corporate policy, a commitment to investigate all new products and services with an eye to ensuring they are fully accessible to people with disabilities and to require that they will be so accessible except where having them so is not readily achievable – the standard under the Act for telecommunications services. Such a commitment is a matter of substantial significance for people with disabilities.

Not all competitors have been as forthcoming. One episode in Missouri illustrates the point. One of the Campaign's constituents who is blind reports that he now gets a copy of his local telephone service bill in braille from Southwestern Bell. He gets a separate bill from his long-distance carrier, AT&T – the multiplying bills spoken of earlier. He recently asked AT&T to send him his bill in braille. The service agent assured him that was no problem. AT&T would just have Southwestern Bell handle his long-distance bill from then on!

In a world in which many competitors are totally insensitive to the needs of people with disabilities and older adults, the Campaign suggests that allowing a company that has proven its sensitivity to the varying needs of such people, that is, SBC, into the long-distance business creates another assurance that the Campaign's constituents can get effectively the telecommunications services they need.

VII. Conclusion

The Campaign believes that allowing SBC into the business of providing long-distance service to customers in Missouri and its other universal service areas will have at least two benefits in the public interest. SBC's entry into the business will enhance the possibility that SBC will focus on assuring that it provides the best present and future telecommunications services in its service areas, including putting downward pressure on long-distance service prices. Second, allowing SBC into the business will create a choice of a long-distance service provider that will simplify service and billing options for many customers and otherwise assure that all its services are fully accessible. Therefore, the Campaign suggests the Commission should approve SBC's application.

Respectfully submitted,

David J. Newburger

David J. Newburger
Newburger & Vossmeyer, LLC
Counsel for Campaign for
Telecommunications Access
One Metropolitan Square, Suite 2400
St. Louis, Missouri 63102
Voice/TDD: 314/436-4300
Telecopier: 314/436-9636

Certificate of Service

I certify that the foregoing has been sent by overnight courier, fees paid, to Magalie Roman Salas, Secretary, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-B204, Washington, D.C. 20554, to Janice Myles, Common Carrier Bureau, 445 12th Street, S.W., Room 5-C327, Washington, D.C. 20554, and mailed U.S. Mails, postage prepaid, to SBC Communications Inc., by service on Michael K. Kellogg, Geoffrey M. Klineberg, Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C., 1615 M Street, N.W., Suite 400, Washington, D.C. 20036, to Dan Joyce, General Counsel, Missouri Public Service Commission, P.O. Box 360, Jefferson City, Missouri 65102 , and to Layla Seirafi, U.S. Department of Justice, Antitrust Division, Telecommunications Task Force, 1401 H Street, N.W., Washington, D.C. 20005, this April 23, 2001.

DNewburger